

HON. RON PAUL OF TEXAS IN THE HOUSE OF REPRESENTATIVES June 4, 2003

Pro-Life Action Must Originate from Principle. As an obstetrician who has delivered over 4000 children, I have long been concerned with the rights of unborn people. I believe this is the greatest moral issue of our time. The very best of the western intellectual tradition has understood the critical link between moral and political action. Each of these disciplines should strongly inform and support the other. I have become increasingly concerned over the years that the pro-life movement I so strongly support is getting further off track, both politically and morally. I sponsored the original pro-life amendment, which used a constitutional approach to solve the crisis of federalization of abortion law by the courts. The pro-life movement was with me and had my full support and admiration. Those who cherish unborn life have become frustrated by our inability to overturn or significantly curtail *Roe v. Wade*. Because of this, attempts were made to fight against abortion using political convenience rather than principle. There is nothing wrong per se with fighting winnable battles, but a danger exists when political pragmatism requires the pro-life movement to surrender important moral and political principles. When we surrender constitutional principles, we do untold damage to the moral underpinnings on which our Constitution and entire system of government rest. Those underpinnings are the inalienable right to life, liberty, and property. Commenting upon the link between our most important rights, Thomas Jefferson said "The God which gave us life gave us at the same time liberty. The hands of force may destroy but can never divide these." M. Stanton Evans further explained the link between our form of government and the rights it protects when he wrote, "The genius of the Constitution is its division of powers-summed up in that clause reserving to the several states, or the people, all powers not expressly granted to the federal government." Pro-lifers should be fiercely loyal to this system of federalism, because the very same Constitution that created the federal system also asserts the inalienable right to life. In this way, our constitutional system closely links federalism to the fundamental moral rights to life, liberty, and property. For our Founders it was no exaggeration to say federalism is the means by which life, as well as liberty and property, are protected in this nation. This is why the recent direction of the pro-life cause is so disturbing. Pro-life forces have worked for the passage of bills that disregard the federal system, such as the Unborn Victims of Violence Act, the federal cloning ban, and the Child Custody Protection Act. Each of these bills rested on specious constitutional grounds and undermined the federalism our Founders recognized and intended as the greatest protection of our most precious rights. Each of these bills transfers to the federal government powers constitutionally retained by the states, thus upsetting the separation and balance of powers that federalism was designed to guarantee. To undermine federalism is to indirectly surrender the very principle upon which the protection of our inalienable right to life depends. The worst offender of federalism is the so-called Unborn Victims of Violence Act, which not only indirectly surrenders the pro-life principle but actually directly undercuts the right to life by granting a specific exemption to *abortionists*

! This exemption essentially allows some to take life with the sanction of federal law. By supporting this legislation, pro-lifers are expressly condoning a legal exemption for abortionists-

showing just how far astray some in the pro-life community have gone. Even the Partial Birth Abortion Ban Act, which is an integral part of the current pro-life agenda, presents a dilemma. While I have always supported this Act and plan to do so in the future, I realize that it raises questions of federalism because authority over criminal law is constitutionally retained by the states. The only reason a federal law has any legitimacy in this area is that the Supreme Court took it upon itself to federalize abortion via *Roe v. Wade*. Accordingly, wresting the abortion issue from the federal courts and putting it back in the hands of the elected legislature comports with the Founder's view of the separation of powers that protects our rights to life, liberty, and property. Given these dilemmas, what should those of us in the pro-life community do? First, we must return to constitutional principles and proclaim them proudly. We must take a principled approach that recognizes both moral and political principles, and accepts the close relationship between them. Legislatively, we should focus our efforts on building support to overturn *Roe v. Wade*. Ideally this would be done in a fashion that allows states to again ban or regulate abortion. State legislatures have always had proper jurisdiction over issues like abortion and cloning; the pro-life movement should recognize that jurisdiction and not encroach upon it. The alternative is an outright federal ban on abortion, done properly via a constitutional amendment that does no violence to our way of government. If the next version of the Partial Birth Abortion Ban act reads like past versions in the House, I will likely support it despite the dilemmas outlined here. I cannot support, however, a bill like the proposed Senate version of the Partial Birth Abortion Ban that reaffirms *Roe v. Wade*. For the pro-life cause to truly succeed without undermining the very freedoms that protect life, it must return to principle and uphold our Founder's vision of federalism as an essential component of the American system. Undermining federalism ultimately can only undermine the very mechanism that protects the right to life.